

**CHAPTER NO. 824**

**HOUSE BILL NO. 2984**

**By Representatives Ford, Patton, Givens, Boyer, McDaniel, Davidson**

**Substituted for: Senate Bill No. 2432**

**By Senator Haun**

AN ACT to amend Tennessee Code Annotated, Section 49-2-203, relative to the construction of schools and construction management services.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-2-203(a)(4)(C)(ii), is amended by deleting such subsection in its entirety and by substituting instead the following:

(ii) Construction management services which are provided for a fee and which involve coordination and oversight of the planning, design, bid and construction phases of the project, are deemed to be professional services and may be performed by a qualified person on the basis of recognized competence and integrity. Construction management services are to be procured through a request for proposals process. The request for proposals process will invite prospective proposers to participate and will indicate the service requirements and the factors used for evaluating the proposals. Such factors shall include construction manager's qualifications and experience on similar projects, qualifications of personnel to be assigned to the project, fees, or any additional factor or factors deemed relevant by the procuring entity for procurement of the service; cost is not to be the sole criterion for evaluation. The contract for such services will be awarded to the best-evaluated and responsive proposer. A construction manager is prohibited from undertaking actual construction work on a project over which such construction manager coordinates or oversees the planning, design, bid or construction phases of the project, except in instances where bids have been solicited twice and no bids have been submitted. If the construction manager can document that a good faith effort was made in each bid solicitation to obtain bids and no bids were received, then the construction manager can perform the construction work at a price agreed upon by the construction manager, the architect and the owner of the project. A school system, at its own discretion, may perform work on the project with its own employees and include the coordination and oversight of this work as part of the services of the construction manager.

SECTION 2. Tennessee Code Annotated, Section 49-2-203(a)(4)(C), is further amended by adding the following as a new subsection (iv):

(iv) Construction work which is under the coordination and oversight of a construction manager shall be procured through competitive bids as provided in this subsection.

SECTION 3. The comptroller of the treasury is directed to conduct a study of the impact of this act on the use of construction managers in the school building projects. The comptroller shall attempt to determine if this act has caused delays or increased costs of school building projects. The comptroller shall report to the general assembly not later than January 31, 2005, with recommendations.


SECTION 4. This act shall take effect July 1, 2002, the public welfare requiring it.

**PASSED: June 20, 2002**

  
JIMMY NAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES

  
JOHN S. WILDER  
SPEAKER OF THE SENATE

**APPROVED this 27<sup>th</sup> day of June 2002**

  
DON SUNDQUIST, GOVERNOR